



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: OCTOBER 24, 2005

II.3.
ITEM NUMBER:

SUBJECT: PLANNING APPLICATION PA-05-28
2281 NEWPORT BOULEVARD (UNION 76)

DATE: OCTOBER 13, 2005

FOR FURTHER INFORMATION CONTACT: WENDY SHIH, ASSOCIATE PLANNER (714) 754-5136

PROJECT DESCRIPTION

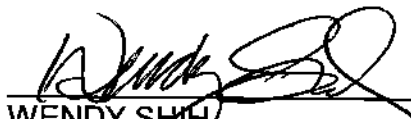
The applicant is requesting approval of a conditional use permit to allow the construction of a 1,000 square foot convenience store with concurrent sales of alcoholic beverages at an existing gas station (Union 76) with variances to allow parking within the required setback along Newport Boulevard and from number of parking spaces.

APPLICANT

Shawn Mehr of Octagon Enterprises is representing the property owner, Sam Rahimian.

RECOMMENDATION

Deny by adoption of Planning Commission resolution.


WENDY SHIH
Associate Planner


R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

PLANNING APPLICATION SUMMARY

Location: 2281 Newport Boulevard Application: PA-05-28

Request: Demolish an existing cashier kiosk and construct a convenience store for Union 76 Service Station, with variances and alcohol sales.

SUBJECT PROPERTY:

Zone: C2

General Plan: General Commercial

Lot Dimensions: Irregular

Lot Area: 12,600 sq.ft.

Existing Development: Service station with a cashier kiosk.

SURROUNDING PROPERTY:

North: Surrounding properties

South: are zoned commercial

East: and contain

West: commercial uses.

DEVELOPMENT STANDARD COMPARISON

<u>Development Standard</u>	<u>Code Requirement</u>	<u>Proposed/Provided</u>
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Lot Size:			
Lot Width	120 ft.	137 ft.	
Lot Area	12,000 sq.ft.	12,600 sq.ft.	
Floor Area Ratio:	.20 (2,520 sq.ft.)	.08 (1,000 sq.ft.)	
(High Traffic FAR)			
Building Height:	2-stories/30 ft.	1-story/21 ft.	
Interior landscaping:	150 sq.ft. (based on required parking)	Approx. 485 sq.ft.	
Setbacks:	Landscape and Building	Landscape	Building
Front (Fairview Rd.)	20 ft.	5 ft.**	2 ft.*
Side (interior/street)	0 ft./20 ft.	5 ft./10 ft.*	5 ft./ 43 ft.
Front (Newport Blvd.)	20 ft.	0 ft.*	2 ft.*
Parking:			
Standard	5	3	
Handicapped	1	1	
TOTAL:	6	4**	

CEQA Status Class 3

Final Action Planning Commission

* Existing setbacks approved under ZE-82-143.

** Variance requested.

BACKGROUND

The property is located on the northern corner of Newport Boulevard and Fairview Road. A gasoline service station was constructed on the property in 1963. In 1983, a conditional use permit for the gasoline station remodel with variances from required setbacks from Fairview Road and Newport Boulevard property lines for the service station canopies, street setback landscaping requirements, and parking requirements were approved (ZE-82-143). An encroachment permit (EP-82-13) was also approved to allow installation of a landscaped planter within the public right-of-way on Fairview Road. The remodel included construction of a cashier's kiosk and addition of two pump islands and a canopy expansion.

DISCUSSION

The applicant proposes to demolish the cashier's kiosk and construct a 1,000 square foot convenience store with concurrent sales of alcoholic beverages. Variances to allow parking within the required street setback along Newport Boulevard (20 feet required; 5 feet proposed) and from number of parking spaces (6 required; 4 proposed) are also requested.

CONDITIONAL USE PERMIT – CONVENIENCE STORE

According to ABC (State Department of Alcoholic Beverage Control), the census tract in which the gasoline station is located (639.060) is not within an area of undue concentration for off-sale licenses (4 licenses allowed; 3 existing). Government Code Section 23958.4 defines "undue concentration" as being an area where there is high crime (defined as an area exceeding the City-wide average crime rate by more than 20 percent), and/or the ratio of the number of ABC licenses to population within the census tract exceeds the countywide ratio of the number of ABC licenses to population. The property is also not located within a high crime area based on 2004 information. However, the adjoining census tracts are undue concentration (639.050 allows 4; 5 existing and 637.020 allows 4; 8 existing). In 2001, Assembly Bill no. 624 was passed to allow ABC take into account adjacent crime reporting districts if the applicant's premises for any off-sale beer and wine license is located within 100 feet of the boundaries of any adjacent crime reporting district. The adjacent crime-reporting district (13) is a high crime area that exceeds the City-wide average crime rate by 53 percent. As a result, staff is recommending denial of alcohol sales at this location.

Staff is also recommending denial of this request because the applicant proposes to intensify the use on a property that already cannot satisfy applicable development standards, even with a smaller building.

PARKING VARIANCE

Code requires 4 spaces per 1,000 square feet of gross floor area with a minimum of 6 spaces. In 1983, a parking variance (6 required; 4 provided) was approved because the gasoline station (consisting of a 200 square foot kiosk and two canopies with four pump islands) would be self-service and there was no convenience store. Since the applicant proposes a convenience store, which will generate a higher parking demand, it is staff's opinion that although the property is irregularly shaped, there are no special circumstances to justify approval of the parking variance and that approval of the deviation would constitute a grant of special privileges inconsistent with the limitation upon other properties.

STREET SETBACK VARIANCES

Code prohibits parking within street setbacks, requiring street setbacks be landscaped with the exception of necessary walkways and driveways. The applicant is proposing to relocate the northern driveway further south on Newport Boulevard and wishes to place two parking spaces within the required 20-foot setback. The proposal would result in a 5-foot landscape and parking setback from Newport Boulevard property line. Although the property is irregularly shaped and has two street frontages, it is staff's opinion that there is no justification for approving additional setback variances on the property, which are created by the proposed convenience store.

ALTERNATIVES

If Planning Application PA-05-28 is denied, the property may not be remodeled as proposed.

If the proposal is approved with the necessary findings for approval and conditions, the property may be remodeled as proposed.

CONCLUSION

It is staff's opinion that the proposed convenience store with or without off-sale of alcoholic beverages is too intensive for the site and would be materially detrimental to the health, safety and general welfare of the public because of the number of off-sale alcohol licenses in the area and because the building cannot be built without variances. The proposed remodel will make the property even more nonconforming with respect to parking and setbacks.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" – Findings
 Exhibit "B" – Conditions of Approval
 Applicant's Project Description and Justification
 Location Maps
 Census Tracts Map
 High Crime Areas Map
 Plans

af

cc: Deputy City Manager - Dev. Svs. Director
Sr. Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

Shawn Mehr
Octagon Enterprises
3303 Harbor Blvd., Ste. C-6
Costa Mesa, CA 92626

Sam Rahimian
1200 East Imperial Hwy.
Brea, CA 92821

File: 102405PA0528	Date: 101305	Time: 8:30 a.m.
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RESOLUTION NO. PC-05-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF COSTA MESA DENYING PLANNING APPLICATION
PA-05-28**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Shawn Mehr of Octagon Enterprises for Sam Rahimian, owner of real property located at 2281 Newport Boulevard, requesting approval of a conditional use permit to conditional use permit to allow the construction of a 1,000 square foot convenience store with concurrent sales of alcoholic beverages at an existing gas station with variances to allow parking within the required street setback along Newport Boulevard (20 feet required; 5 feet proposed) and from number of parking spaces (6 spaces required; 4 proposed); and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission on October 24, 2005.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," the Planning Commission hereby **DENIES** Planning Application PA-05-28 with respect to the property described above.

PASSED AND ADOPTED this 24th day of October, 2005.

Bill Perkins, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on October 24, 2005, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

Secretary, Costa Mesa
Planning Commission

EXHIBIT "A"**FINDINGS**

- A. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is not compatible with developments in the same general area. Granting the conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, it would intensify a use on a property that already cannot satisfy parking and setback requirements. The sales of alcoholic beverage for off-site consumption is also incompatible with surrounding uses because adjacent census tracts have undue concentration of off-sale licenses and an adjacent crime reporting district is a high crime area. Granting the conditional use permit will allow a use, density or intensity which is not in accordance with the general plan designation for the property.
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(1) in that no special circumstances exist to justify approval of the parking and setback variances. Although the property is irregularly shaped with two street frontages, the variances are created by the proposed convenience store. Approval of the variances would constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and zone in which the property is situated.
- C. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
 - a. The proposed use and construction are not compatible and harmonious with uses both on-site as well as those on surrounding properties.
 - b. The project is not consistent with the General Plan.
 - c. The planning application is for a project-specific case and does not establish a precedent for future development.
 - d. The cumulative effect of all the planning application has been considered.
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under 15303 (New Construction).
- E. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

EXHIBIT "B"**CONDITIONS OF APPROVAL (If project is approved)**

- Plng.
1. Street addresses shall be displayed on the freestanding sign or, if there is no freestanding sign, on the fascia or store front adjacent to the main entrance of the building, in a manner visible to the public street and on the building face/wall/fence visible to the public alley, if applicable. Numerals shall be a minimum 12" in height with not less than 3/4" stroke and shall contrast sharply with the background.
 2. Canopies shall be architecturally compatible with regard to building materials, style, colors, etc. with the new structure. Exterior elevations shall be submitted for pre-plan check review and approval by the Planning Division. Once the exterior elevations have been reviewed and approved by the Planning Division, the exterior elevations shall be incorporated into the plan check drawings.
 3. Cornices and other architectural elements shall be wrapped around to the side and rear of building facades.
 4. No exterior roof access ladders, roof drain scuppers, or roof drain downspouts shall be permitted.
 5. If parking shortage or other parking-related problems arise, the applicant shall submit a parking management plan to the Planning Division addressing parking needs, use of spaces on-site, and on-site parking availability.
 6. Show method of screening for all ground-mounted equipment (backflow prevention devices, Fire Department connections, electrical transformers, etc.). Ground-mounted equipment shall not be located in any landscaped setback visible from the street, except when required by applicable uniform codes, and shall be screened from view, under the direction of Planning Staff.
 7. All rooftop mechanical equipment shall be screened under the direction of the Planning staff.
 8. The conditions of approval and ordinance or code provisions and special district requirements of Planning Application PA-05-28 shall be blueprinted on the face of the site plan as part of the plan check submittal package.
 9. The applicant shall contact the Planning Division to arrange for a Planning inspection of the site prior to the release of occupancy/utilities. This inspection is to confirm that the conditions of approval and code requirements have been satisfied.
 10. Prior to alcohol sales at this location, the applicant shall purchase and transfer an existing Alcoholic Beverage Control license from a location within the same census tract.
 11. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit.
 12. No sale of beer in single cans or bottles (any size) shall be permitted. This restriction is not intended to prohibit the sale of such beverages in kegs or

other types of containers, with a volume of 2 or more gallons, which are clearly designed to dispense multiple servings.

13. The applicant shall maintain free of litter all areas of the premises under which applicant has control.
14. Exterior advertising shall comply with the City's sign regulations, and exterior advertisements shall be prohibited which indicate the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible from the exterior at the closest public street or sidewalk, shall constitute a violation of this condition.
15. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
16. A copy of the conditions of approval for the conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
- Eng. 17. Maintain the public Right-of-Way in a "wet-down" condition to prevent excessive dust and remove any spillage from the public Right-of-Way by sweeping or sprinkling.

CITY OF COSTA MESA PLANNING APPLICATION

PROJECT DESCRIPTION AND JUSTIFICATION

1. Project Address: 2281 Newport Blvd.
2. Fully describe your request: VARIANCE TO ALLOW PARKING WITHIN THE REQUIRED FRONT SETBACK AREA IN CONJUNCTION WITH THE CONSTRUCTION OF A CONVENIENCE STORE.
3. Justification:
 - A. For a Conditional Use Permit or Minor Conditional Use Permit: On a separate sheet, describe how the proposed use is substantially compatible with uses permitted in the same general area and how the proposed use would not be materially detrimental to other properties in the same area.
 - B.

 For a variance or Administrative Adjustment: On a separate sheet, describe the property's special circumstances, including size, shape, topography, location or surroundings that deprive the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification due to strict application of the Zoning Code.
4. This project is: (check where appropriate)

☐ In a flood zone.

☐ In the Redevelopment Area.

☐ Subject to future street widening.

☐ In a Specific Plan Area.

☐ Includes a drive-through facility.
(Special notice requirements, pursuant to GC Section 65091 (d))
5. I have reviewed the HAZARDOUS WASTE AND SUBSTANCES


RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT
JUL 11 2005

SHEETS LIST

 reproduced on the rear of this page and have determined the project:

☐ Is not included in the publication indicated above.

☐ Is included in the publication indicated above.


Signature

7/11/05
Date

Costa Mesa Investment, LLC

1200 East Imperial Highway, Brea, CA 92821

Tel: 714-529-2172

From: Shawn Mehr
Octagon Enterprises
3303 Harbor Boulevard, Suite C-6
Costa Mesa, CA 92626

July 11, 2005

To: Ms. Hanh Tran, Assistant Planner
City of Costa Mesa
Ph: 714-754-5640

Re: Project / Activity #: PA-05-28
2281 Newport Boulevard

Request: Conditional use permit for Convenience Store with a **VARIANCE** to allow parking within the required front setback area in conjunction with the construction of a convenience store.

Dear Ms. Tran,

The smallest size for convenience store to work and makes some profit is 1200 sq. Ft.

Due to the odd shape of property which is triangle and located between two major streets and also location of the existing gas canopies and pumps, we need variance for two parking stalls which are designed and located within the front setback of property. As we show in the site plan, the size of property does not allow, providing the required parking somewhere else.

It will be appreciated to approve this variance to construct this building which will add a nice building to the city and convenience for the neighbors.

Truly Yours, Shawn Mehr



RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

JUL 11 2005

AERIAL PHOTOGRAPH

2281 Newport Boulevard

Legend



Selected Features

Street Names

Parcel Lines

City Boundary

Ortho Photography

Parcels

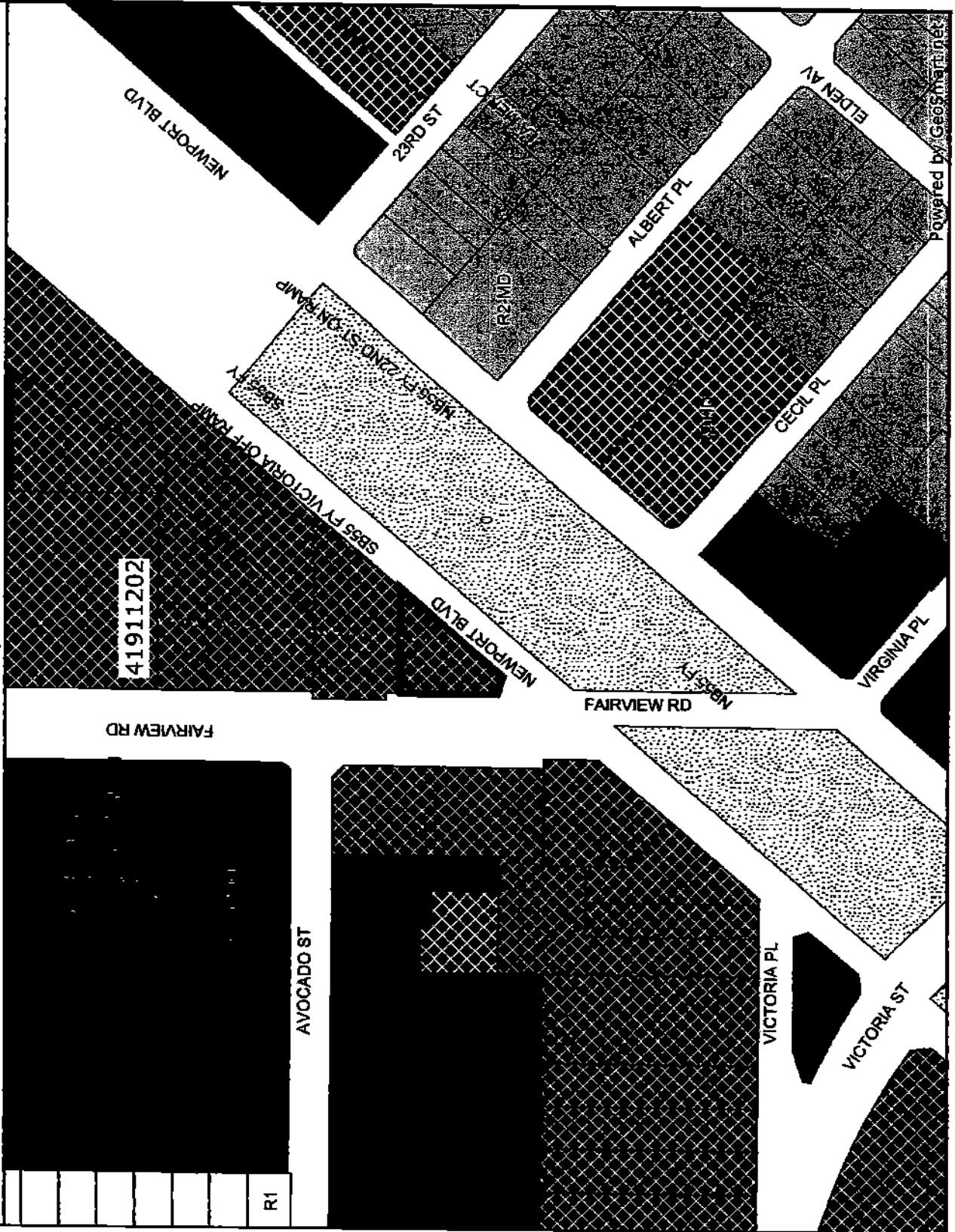
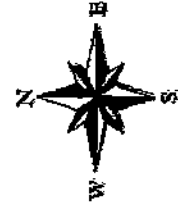


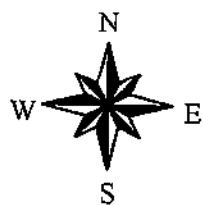
ZONING/LOCATION MAP

2281 Newport Boulevard

Legend

- Selected Features
 - Street Names
 - Parcel Lines
 - City Boundary
 - Zoning
- | | | | | | | | | | | | | | | | | | | | | |
|----|----|------|----|----|-----|-------|----|----|---|-----|-----|--------|--------|--------|---------|----|-------|-------|----|----|
| AP | C1 | C3-S | C2 | CL | LAR | LAR-A | MG | MP | P | RDC | PDI | PDR-HD | PDR-LD | PDR-MD | PDR-NCN | R1 | R2-HD | R2-MD | R3 | TC |
|----|----|------|----|----|-----|-------|----|----|---|-----|-----|--------|--------|--------|---------|----|-------|-------|----|----|
- Parcels



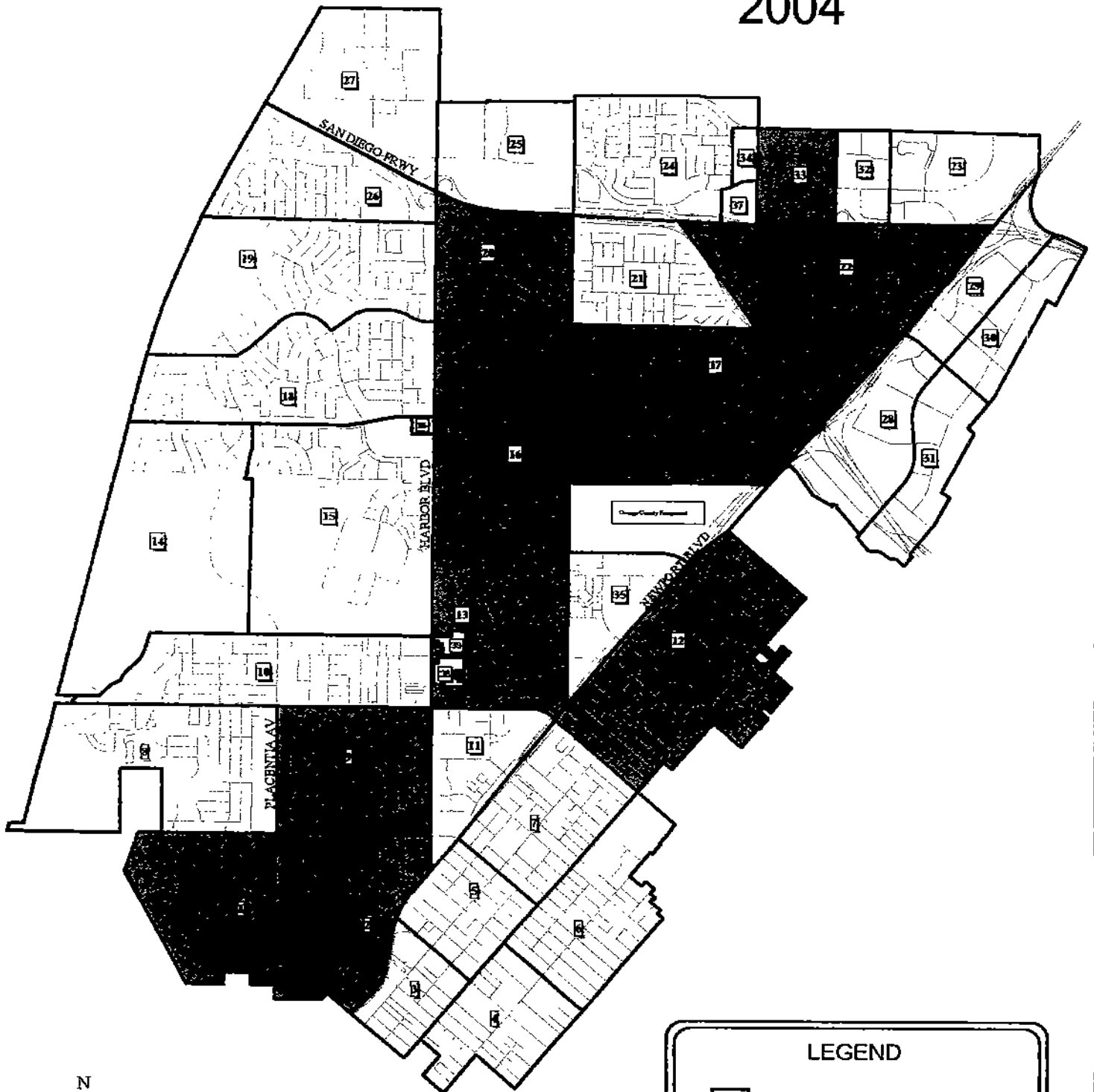


LEGEND



City Boundary Line

15

High Crime Areas 2004



LEGEND

-  Police Districts
-  Areas Where Crime Exceeds 20% of City Wide Average

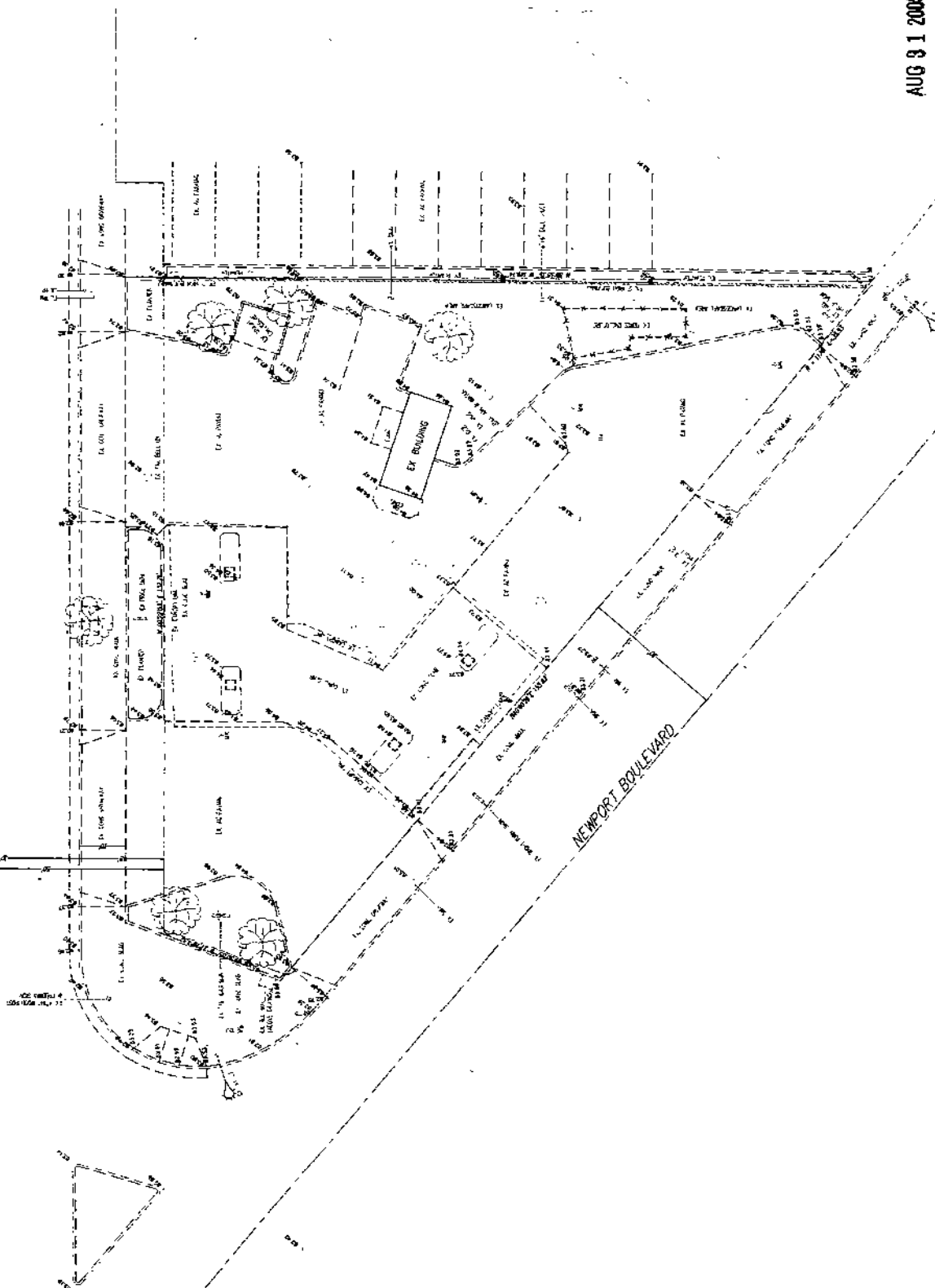
AUG 31 2005

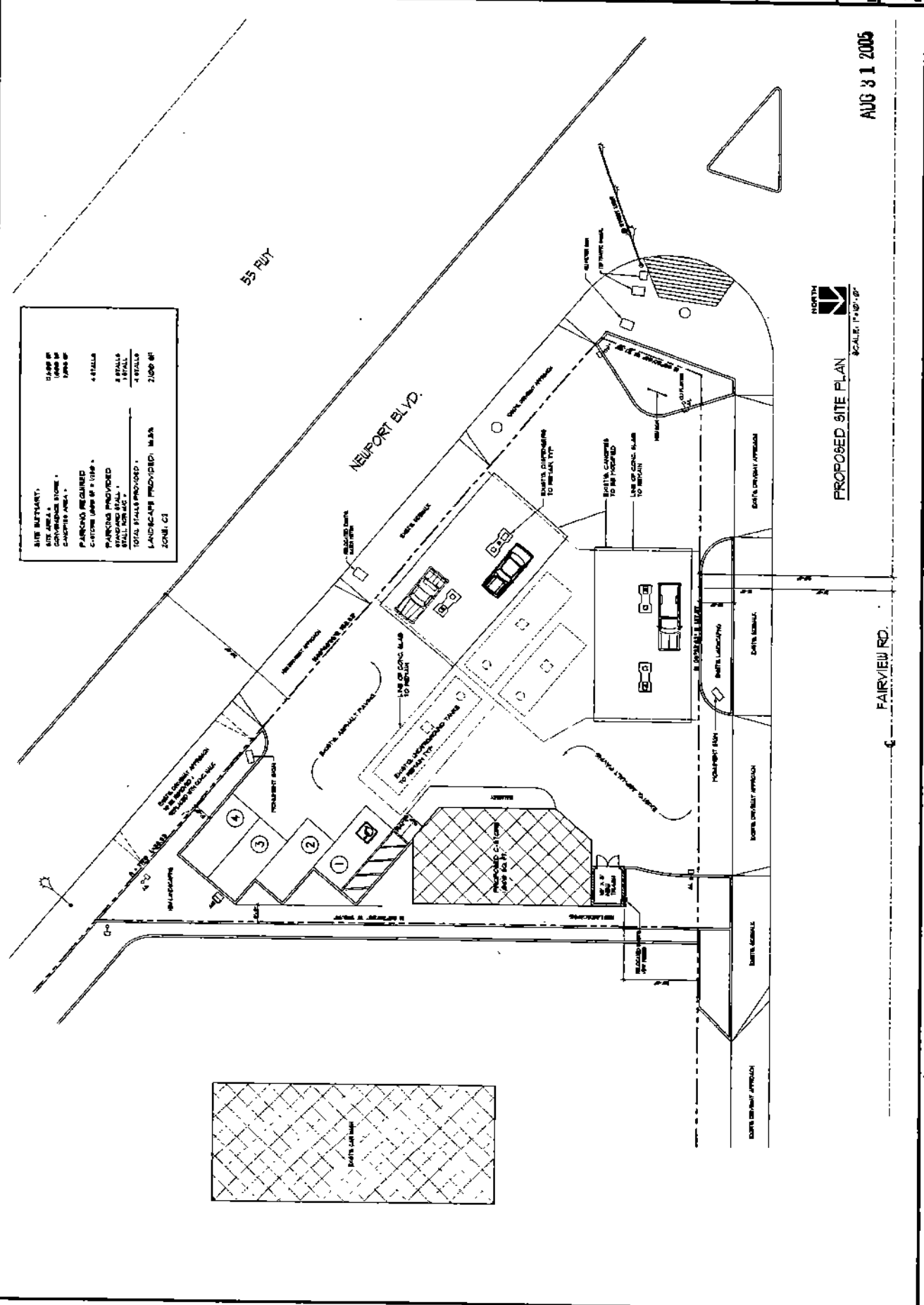
SURVEY AND ADDRESS
2281 NEWPORT BOULEVARD
COATS MESA, CA.

OWNER AND DEVELOPER
2651 E. CHAPMAN AVE. STE. 101
FULLERTON, CA. 92831
PHONE (714) 282-9441

INDER ENGINEERING, INC.
2651 E. CHAPMAN AVE. STE. 101
FULLERTON, CA. 92831
PHONE (714) 682-5641

Model	Year	Price
Model A	2010	1000
Model B	2011	1200
Model C	2012	1500
Model D	2013	1800
Model E	2014	2000
Model F	2015	2200
Model G	2016	2500
Model H	2017	2800
Model I	2018	3000
Model J	2019	3200
Model K	2020	3500

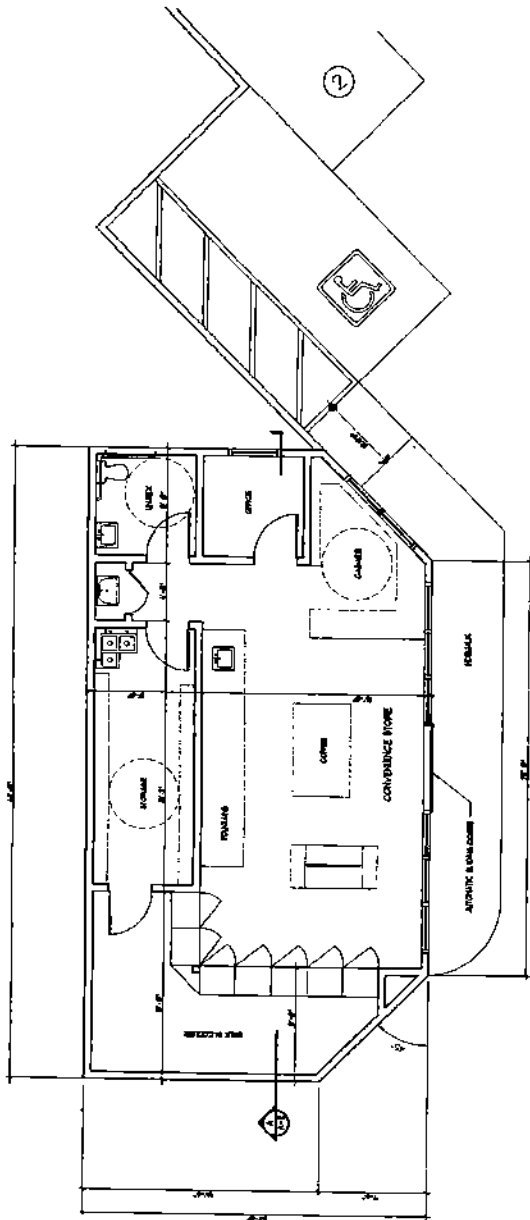




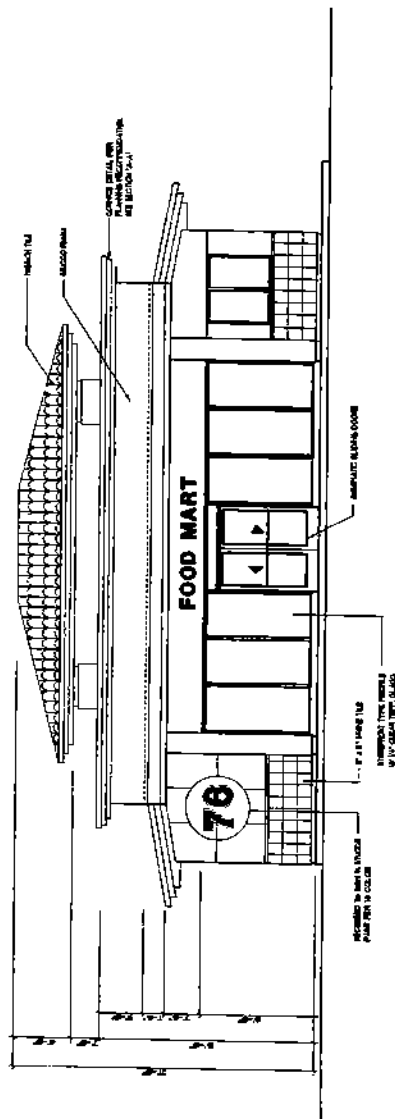
AUG 31 2005

PROPOSED SITE PLAN

FAIRVIEW RD.

[illegible][illegible]

AUG 31 2005



Costa Mesa Union 76
Convenience Store & Gas Station

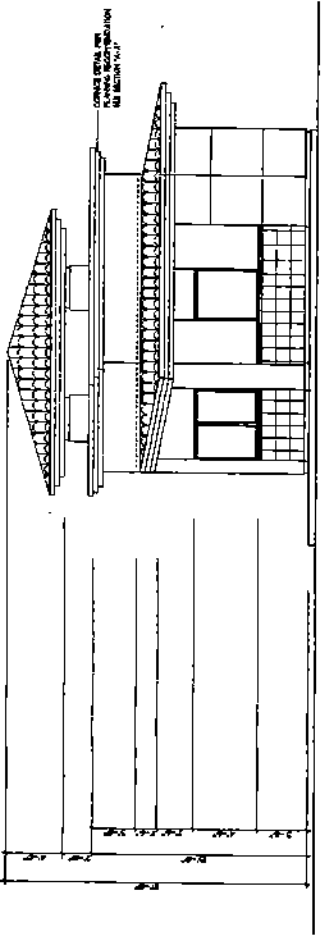
OCTAGON ENTERPRISES, INC.
3303 MARION BOULEVARD, SUITE D-8
COSTA MESA, CALIFORNIA 92626

TIME

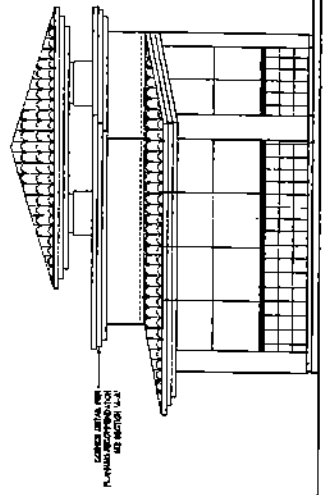
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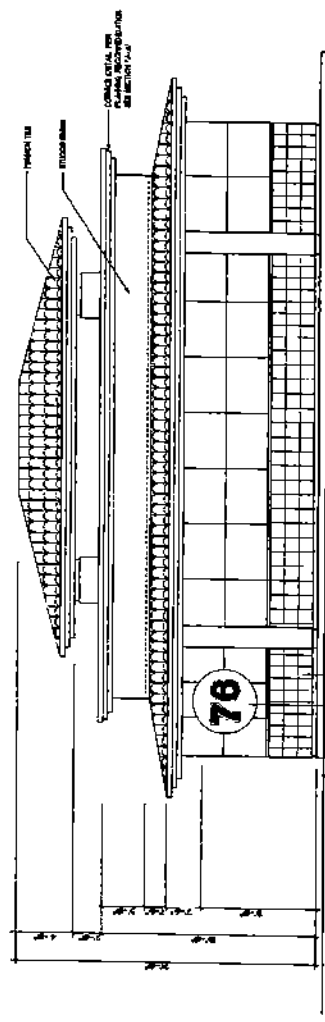
FD-36 (Rev. 5-22-64)



SOUTH ELEVATION
1/4" = 1'-0"



NORTH ELEVATION
1/4" = 1'-0"



EAST ELEVATION
1/4" = 1'-0"

AUG 31 2005

A-8

DATE	10/20/2004
BY	WBS
CHECKED	WBS
DESIGNED	WBS
PROJECT	WBS
NO.	WBS

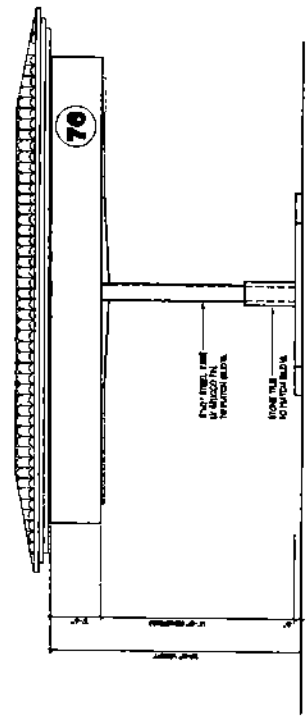
OCTAGON ENTERPRISES, INC.
2800 MARBURY HOLLOWAY, SUITE C-4
COSTA MESA, CALIFORNIA 92626

EXIST. CANOPIES PLAN
& ELEVATIONS
TITLE

Costa Mesa Union 76
Convenience Store & Gas Station
Project: 1001 A - Pacific Rd.
Costa Mesa, CA

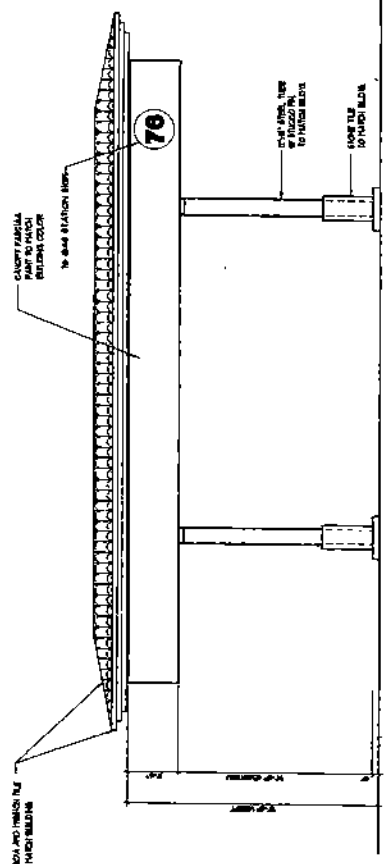
CANOPIES ELEVATION "B"

SCALE: 1/4" = 1'-0"



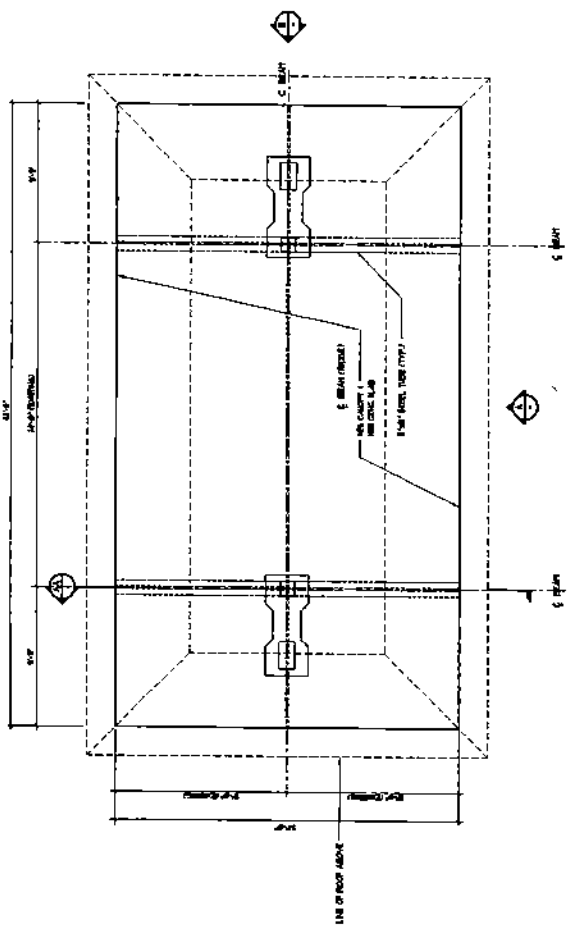
CANOPIES ELEVATION "A"

SCALE: 1/4" = 1'-0"



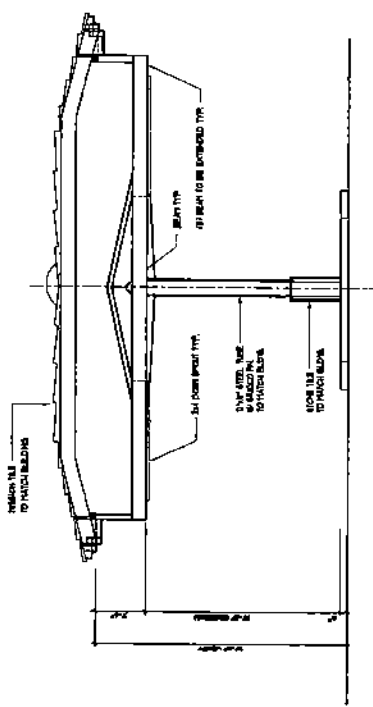
MODIFY EXISTING CANOPIES

SCALE: 1/4" = 1'-0"



TYPICAL CANOPIES SECTION "AA"

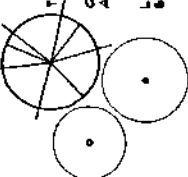
SCALE: 1/4" = 1'-0"



PLANTING LEGEND

SYMBOL BOTANICAL NAME COMMON NAME SIZE QTY REMARKS

TREES



TIPUANA TIPU	TIPU TREE	24" BOX B	STANDARDS	
CUPANOPSIS ALLGARDIODES	CARROTWOOD	EXISTING	PROTECT IN PLACE	
LIQUIDAMBAR STYRACIFLUA	AMERICAN BISTORTUM	EXISTING	PROTECT IN PLACE	
SHRUBS				
1 GARDENIA JASMINODES	GARDENIA	5 GAL	72	2'-0" OC.
2 KLEINIA HARDY	FLAX	5 GAL	53	3'-0" OC.
3 PHORNIUM TENAX	TOSIRA	5 GAL	14	4'-0" OC.
4 PITCOFORUM TOSIRA	DAYLILY	1 GAL	192	1'-0" OC.
5 HETEROCALLIS HYBRIDA	INDIAN HAZEL	5 GAL	67	3'-0" OC.
6 PARDON ME	BOSTON IVY	5 GAL	3	REMOVE FROM PLANT ATTACH TO WALL
7 RHAPHIOLEPIA INDICA 'CLARA'				
VINES				
8 PARTHENOCISSUS TRICOLORATA				

NEUPORT BOULEVARD

FAIRVIEW ROAD

FAIRVIEW ROAD



PRELIMINARY LANDSCAPE PLAN
SCALE: 1"=10'-0"

PRELIMINARY
LANDSCAPE PLAN

OCTAGON ENTERPRISES, INC.
3800 MARIN AVENUE, SUITE C-9
COSTA MESA, CALIFORNIA 92626

DATE: 08/01/05
BY: [Signature]
CHECKED BY: [Signature]
APPROVED BY: [Signature]

L-1

PLANTING NOTES

1. CONTRACTOR TO REVIEW PLANS, VERIFY SITE CONDITIONS, AND NOTIFY ARCHITECT IMMEDIATELY OF ANY DISCREPANCIES OR OMISSIONS. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.
2. ALL TREES SHALL HAVE A PERMANENT IDENTIFICATION TAG AT A HEIGHT OF 4 FEET ABOVE THE GROUND. THE TAG SHALL BE MADE OF DURABLE MATERIAL AND SHALL BE EASY TO READ. THE TAG SHALL BE MADE OF DURABLE MATERIAL AND SHALL BE EASY TO READ.
3. LANDSCAPE MATERIALS SHALL BE APPROVED BY THE ARCHITECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES.
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APR 3 1 2005